

Notice of Allowability

Application No.

09/995,063

Examiner

Frederick C. Nicolas

Applicant(s)

MICHAELS ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 6/7/2004.
2. ☒ The allowed claim(s) is/are 1-6,8,14-19,21,27-35,37 and 79.
3. ☒ The drawings filed on 14 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the applicants' attorney Mr. Anthony G. Volini on 7/16/2004.

The application has been amended as follows:

IN THE CLAIMS:

This application is in condition for allowance except for the presence of claims 7,9-13,20,22-26,36,38-78 to an invention non-elected without traverse. Accordingly, claims 7,9-13,20,22-26,36,38-78 have been cancelled.

Allowable Subject Matter

2. Claims 1-6,8,14-19,21,27-35,37,79 are allowed.
3. The following is an examiner's statement of reasons for allowance: the prior art fails to disclose or render obvious a container for product in combination with the other claimed limitations of claim 1:

"a first wall portion extending from the container body to and contiguous with a second wall portion wherein the second wall portion is tapered and extends toward a reduced diameter terminating in an exterior end that has at least one side opening therethrough wherein the valve is actuable to dispense product through the side opening and wherein the first wall portion is non-tapered and lacks any side openings".

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The prior art fails to disclose or render obvious a combination of a container and a dispensing apparatus in combination with the other claimed limitations of claim 14:

"the hollow stem further including a first tapered sealing surface disposed intermediate the side opening and the container body wherein the stem is adapted for engagement with the apparatus to permit dispensing of product through the side opening into the dispensing apparatus; the dispensing apparatus including, a coupling member having a second sealing surface that seals against the first sealing surface forming a continuous seal that prohibits flow of product past the seal".

The prior art fails to disclose or render obvious a container for product in combination with the other claimed limitations of claim 27:

"wherein the container has pressurized product therein in combination with a dispensing apparatus adapted to dispense product and having a coupling assembly and a dispenser inlet valve, wherein the container is engaged by the coupling assembly wherein the hollow stem is adapted for engagement with the dispenser inlet valve to permit dispensing of product through the at least one side opening into a chamber of the dispensing apparatus, and wherein the chamber temporarily stores product prior to dispensing product from the apparatus".

The prior art fails to disclose or render obvious a combination of a dispensing apparatus and a container of pressurized product in combination with the other claimed limitations of claim 28:

"wherein the hollow stem has an exterior end that has at least one side opening therethrough and wherein the hollow stem is adapted for engagement with the

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dispenser inlet valve to permit dispensing of product through the at least one side opening into the dispensing apparatus and wherein the hollow stem includes a profiled end surface and a main body portion and wherein the coupling assembly includes a first sealing element engageable with the main body portion and a second sealing element engageable with the end surface".

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancene L. Gene, can be reached on 703-308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN

July 16, 2004

FN 7/16/04

Gene Mancene

Gene Mancene
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